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Amendment
Attorney Docket No. S63.2L-10389-US01

Remarks

This Amendment is in response to the Office Action dated **January 25, 2005**. Claims 1-37 are pending in this application. The Office Action rejected claims 16-19 and 22 asserting 35 USC § 102 over Penn et al. (US 6,758,860; hereinafter "Penn"); rejected claims 16, 17 and 22 asserting 35 USC § 102 over Allen et al. (US 2001/0016770; hereinafter "Allen"); and rejected claims 25-37 asserting 35 USC § 102 over Berry et al. (US 6,231,598; hereinafter "Berry"). The Office Action also indicated allowable subject matter in claims 1-15 and 24.

By this Amendment, claims 1, 5, 16, 25, 28, and 34 are amended. The specification is amended to correct further deficiencies. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

Allowable Subject Matter

Applicants gratefully acknowledge the Office Action's indication of allowable subject matter in claims 1-15 and 24. However, Applicants have made amendments to correct deficiencies discovered in claims 1-15.

For the reasons set forth below, Applicants respectfully assert that all of the claims are directed to allowable subject matter and that the application is in condition for allowance.

Specification and Claims 1-15

Applicants have discovered deficiencies with respect to claims 1-15 and have amended the specification and claims accordingly. Operation of the stent is more clearly described in the specification and claims 1-15 as amended.

Support for the amendments may be found at least in Figures 1A and 1B, and especially 3A and 3B. The amendments are further supported throughout the specification, for example at column 9, lines 49-51, which states, "The basic unit cell of the invention provides a structure which radially expands with minimal axial shortening." The amendments to the specification and claims 1-15 support this characterization of the invention.

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Claim Rejections - Penn

The Office Action rejects, under 35 USC § 102, claims 16-19 and 22 over Penn. Claim 16 has been amended and requires “first serpentine circumferential bands of a first shape and second serpentine circumferential bands of a second shape different from the first shape,...at least one first serpentine circumferential band adjacent to and connected to another first serpentine circumferential band,” and distal most and proximal most openings of the stent “being at least partially bounded by a first serpentine circumferential band and at least partially bounded by a second serpentine circumferential band.”

Assuming only for the sake of argument that Penn discloses a stent which may be characterized as having “first serpentine circumferential bands of a first shape and second serpentine circumferential bands of a second shape different from the first shape,” it does not disclose or suggest a stent having a “first serpentine circumferential band adjacent to and connected to another first serpentine circumferential band” while also having proximal most and distal most openings of the stent “being at least partially bounded by a first serpentine circumferential band and at least partially bounded by a second serpentine circumferential band” as required by claim 16.

Therefore, Applicants submit that amended independent claim 16 is patentable over Penn. Claims 17-19 and 22 depend from independent claim 16 and are patentable over Penn for at least the reasons discussed with respect to claim 16. Accordingly, Applicants request the withdrawal of the rejections under 35 USC § 102.

Claim Rejections - Allen

The Office Action rejects, under 35 USC § 102, claims 16, 17 and 22 over Allen. Claim 16 has been amended and requires “first serpentine circumferential bands of a first shape and second serpentine circumferential bands of a second shape different from the first shape,” and “at least one first serpentine circumferential band adjacent to and connected to another first serpentine circumferential band.”

The Examiner has characterized Allen as having first serpentine circumferential bands 58 and second serpentine circumferential bands 3. See Office Action page 2, last paragraph. Applicants assert that under this characterization, there is no “first serpentine

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circumferential band adjacent to and connected to another first serpentine circumferential band” as required by claim 16. Each of the interconnecting elements 50, which span between adjacent “serpentine bands,” connect between a “first serpentine circumferential band” and a “second serpentine circumferential band.” See e.g. Figure 8. Allen does not disclose or suggest a stent wherein an interconnecting element 50 spans between two “first serpentine circumferential bands.”

Therefore, Applicants submit that amended independent claim 16 is patentable over Allen. Claims 17 and 22 depend from independent claim 16 and are patentable over Allen for at least the reasons discussed with respect to claim 16. Accordingly, Applicants request the withdrawal of the rejections under 35 USC § 102.

Claim Rejections - Berry

The Office Action also rejects, under 35 USC § 102, claims 25-37 over Berry. Independent claims 25, 28 and 34 have been amended and are discussed individually below.

Claims 25-27

Independent claim 25 has been amended and requires “a plurality of sections,” “first bands which are adjacent one another within a section separated one from the other by a second band,” and “a first band of one section adjacent to and connected to a first band of another section, wherein a first band of a section is located at an end of the stent.”

Berry discloses a stent at Figure 5 which the Examiner has characterized as having first bands 21 and second bands 14. See Office Action page 3, line 10. Applicants assert that under this characterization, a first band 21 is not located at an end of the stent as required by claim 25.

Applicants further assert that any other characterization of Figure 5 fails to meet the limitations of claim 25. If the claimed “first bands” are read onto the longitudinal segments 14, Berry does not disclose elements meeting the limitations of “first bands which are adjacent one another within a section separated one from the other by a second band,” and “a first band of one section adjacent to and connected to a first band of another section, wherein a first band of a section is located at an end of the stent.”

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Therefore, Applicants submit that amended independent claim 25 is patentable over Berry. Claims 26 and 27 depend from independent claim 25 and are patentable over Berry for at least the reasons discussed with respect to claim 25. Accordingly, Applicants request the withdrawal of the rejections under 35 USC § 102.

Claims 28-33

Independent claim 28 has been amended and requires "first circumferential serpentine bands having a width in excess of the width of the second circumferential serpentine bands" and "at least one second serpentine circumferential band adjacent to and connected to another second serpentine circumferential band."

The Examiner has cited Figure 5 of Berry for showing different thicknesses, and characterized the stent as having first serpentine circumferential bands 14 and second serpentine circumferential bands 21. See Office Action page 3, lines 3-7.

Applicants assert that no "second band" is adjacent to and connected to another "second band" as required by claim 28. All of the "second bands" shown in Berry are located between two "first bands."

Therefore, Applicants submit that amended independent claim 28 is patentable over Berry. Claims 29-33 depend from independent claim 28 and are patentable over Berry for at least the reasons discussed with respect to claim 28. Accordingly, Applicants request the withdrawal of the rejections under 35 USC § 102.

Claims 34-37

Independent claim 34 has been amended and requires a cell comprising "a first bent end characterized by a first width and a second bent end characterized by a second width... the first bent end having a peak oriented in a first direction, the second bent end having a single peak, the single peak oriented in the first direction."

Applicants assert that Berry does not disclose or suggest a cell meeting the limitations of claim 34. The Examiner has cited Figure 5 of Berry for showing different thicknesses. See Office Action page 3, line 7.

Berry shows a stent having longitudinal segments 14 and interconnection

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segments 21. Portions of the longitudinal segments 14 may have a greater width than portions of the interconnection segments 21. See e.g. column 9, lines 37-44 and column 10, lines 35-37 and 63.

Applicants assert that only cells which are partially defined by a longitudinal segment 14 and partially defined by an interconnection segment 21 would meet the claimed width limitations. However, any such cell selected will not meet the claimed limitations of "the first bent end having a peak oriented in a first direction" and "the second bent end having a single peak, the single peak oriented in the first direction."

Therefore, Applicants submit that amended independent claim 34 is patentable over Berry. Claims 35-37 depend from independent claim 34 and are patentable over Berry for at least the reasons discussed with respect to claim 34. Accordingly, Applicants request the withdrawal of the rejections under 35 USC § 102.

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Conclusion

Based on at least the foregoing amendments and remarks, Applicants respectfully submit this application is in condition for allowance. Favorable consideration and prompt allowance of claims 1-37 are earnestly solicited.

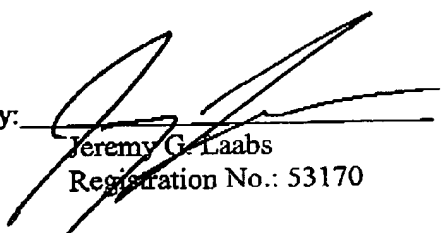
Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: April 22, 2005

By: _____


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